

EXHIBIT A

IN THE  
**SUPREME COURT OF THE UNITED STATES.**

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OCTOBER TERM, 1966.

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No. 946.

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JOHN WOODY  
and  
192 ADDITIONAL PLAINTIFFS-APPELLANTS  
vs.  
STERLING ALUMINUM PRODUCTS, INC.,  
and  
INTERNATIONAL ASSOCIATION OF MACHINISTS  
and  
DISTRICT NO. 9, INTERNATIONAL ASSOCIATION  
OF MACHINISTS,  
and  
LOCAL LODGE NO. 41 OF THE INTERNATIONAL  
ASSOCIATION OF MACHINISTS  
and  
LARRY CONNORS, DIRECTING BUSINESS REPRESENTATIVE,  
DISTRICT NO. 9, I. A. OF M.,  
and  
RUSSELL DAVIS, BUSINESS REPRESENTATIVE,  
DISTRICT NO. 9, I. A. OF M.,  
Defendants-Appellees.

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**PETITION FOR REHEARING OF ORDER DENYING  
PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE  
EIGHTH CIRCUIT.**

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The petitioners herein pray this Court to grant a re-hearing of its order of March 13th, 1967, denying a writ



of certiorari, 87 S. Ct. 1026 (1967). Petitioners further pray that a writ of certiorari issue to review the judgment of the Court of Appeals for the Eighth Circuit as prayed in their petition for certiorari.

### **REASONS FOR GRANTING REHEARING AND ISSUING THE WRIT.**

Circumstances of substantial and controlling effect have arisen during the time that the petition for writ of certiorari herein was pending. The decision and majority opinion of this Court entered on February 27th, 1967, in the case of *Vaca v. Sipes*, 87 S. Ct. 903 (1967), thoroughly, favorably and affirmatively answers every question presented for determination by these petitioners. The ruling of the Eighth Circuit Court of Appeals in this case is now in direct conflict with this Court's opinion in *Vaca v. Sipes* (supra).

This case was cited "CF", in the *Vaca v. Sipes* opinion by Justice Fortas "concurring in the result" with the majority opinion (87 S. Ct. at 921).<sup>1</sup> Petitioners urge the grant of rehearing in order to bring a determination of the issues raised herein into conformity with this Court's mandate in *Vaca v. Sipes* and thereby restore uniformity to the federal common law of labor relations.

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<sup>1</sup> Petitioners have previously suggested simultaneous consideration of this case along with its companion case of *Brown, et al., v. Sterling, etc.*, cert. den. 87 S. Ct. 1023. The *Brown* case was also cited "CF." in the opinion by Justice Fortas in *Vaca v. Sipes*, 87 S. Ct. at 922, footnote No. 3. However, the *Brown* citation in *Vaca v. Sipes* has consistently erroneously designated the *Brown* certiorari petition as "No. 946, O. T. 1966". The correct *Brown* certiorari designation is **No. 937, O. T. 1966**. A petition for rehearing in the *Brown* case is being filed simultaneously with this petition.



**CONCLUSION.**

For the reasons set forth herein and in the petition for writ of certiorari it is respectfully urged that rehearing be granted and that, upon such re-hearing, a writ of certiorari issue to the Court of Appeals for the Eighth Circuit.

Respectfully submitted,

.....  
JEROME J. DUFF,  
Counsel for Petitioners.

**Certificate of Counsel.**

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 58 of the rules of this Court.

.....  
Jerome J. Duff,  
Counsel for Petitioners.

**Certificate of Service.**

State of Missouri, }  
City of St. Louis. } ss.

I, Jerome J. Duff, of counsel for the Petitioners herein and attorney of record for the Petitioners in the Court below, depose that on the 6th day of April, 1967, I served four copies of the foregoing Petition for Rehearing on the Respondents as required by Rule 33, Paragraph 1, by personally mailing said copies hereof to Mr. William Stix, Attorney of Record for Respondent Company, 408



Pine Street, St. Louis, Missouri 63101, and Messrs. Bartley, Siegel and Bartley, Attorneys for Respondent Unions, 130 South Bemiston Avenue, Clayton, Missouri 63105.

.....

Jerome J. Duff.

Subscribed and sworn to before me at St. Louis, Missouri, on this 6th day of April, 1967.

.....

Notary Public.

My Commission Expires:

.....

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"The joint union-employer committee reviewed the records it had as to the longshore work history of the applicants on the basis of the standards set forth in the 1963 Rules. On April 24, 1963, sixteen applicants were found to have failed to satisfy the standards, and they were removed from the Class B list and deregistered. On June 17, 1963, an additional 81 men were found to have failed to satisfy the standards, and they were also deregistered. Of the Class B men who applied for fully registered (Class A) status in 1963, 467 were found to have met the standards and they were given Class A status (R. 757)."

(PMA Brief, p. 12)

"After the initial individual decisions were made on each of appellants' applications to advance to Class A status, each man was given notice and informed that he had an opportunity to appear before the Joint Port Committee. Each appellant appearing was told of the matters in issue and was permitted to respond (R. 757-758). He was also told he could have a further hearing before a sub-committee of the Joint Port Committee to review the detailed facts on which the committee had acted in refusing his application (R. 757-758). In a few cases (none involving appellants) such hearings before the sub-committee brought to light errors in the facts in the particular cases and established that the men in question had indeed met the committee's standards; they were thereupon granted Class A status (R. 89-90).

"In July 1963, when the respective decisions of the port committee to deregister each of the appellants became final, each man was informed of his right to file a grievance if he wished to attack the decision on the ground that there had been discrimination against him (R. 2). Each of the appellants herein filed a type-written grievance on July 27, 1963. . . ."

(PMA Brief, pp. 13-14)

The first section of the report discusses the general situation of the country and the progress of the war. It then goes on to discuss the military situation in the various theaters of operations. The second section discusses the political situation and the progress of the peace negotiations. The third section discusses the economic situation and the progress of the reconstruction program. The fourth section discusses the social situation and the progress of the educational program. The fifth section discusses the cultural situation and the progress of the literary program. The sixth section discusses the international situation and the progress of the diplomatic program. The seventh section discusses the future prospects of the country and the progress of the national program. The eighth section discusses the conclusions of the report and the progress of the overall program. The ninth section discusses the recommendations of the report and the progress of the implementation program. The tenth section discusses the appendixes of the report and the progress of the supporting program. The eleventh section discusses the bibliography of the report and the progress of the research program. The twelfth section discusses the index of the report and the progress of the reference program. The thirteenth section discusses the glossary of the report and the progress of the terminology program. The fourteenth section discusses the notes of the report and the progress of the commentary program. The fifteenth section discusses the footnotes of the report and the progress of the explanatory program. The sixteenth section discusses the endnotes of the report and the progress of the concluding program. The seventeenth section discusses the backmatter of the report and the progress of the supplementary program. The eighteenth section discusses the frontmatter of the report and the progress of the introductory program. The nineteenth section discusses the title page of the report and the progress of the identification program. The twentieth section discusses the cover of the report and the progress of the presentation program.

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"... appellees were called upon during the ensuing period to defend unfair labor practice charges brought by five Class B men who were deregistered at the same time as appellants.<sup>4</sup> During the same period, hearings were conducted on a large number of unemployment insurance claims filed by appellants herein and by others. Such hearings were held on November 6, 1963, and in 1964 on January 13, 15, 17, 20, February 3, 4, 5, 6, 7, March 2, 6, 30, 31, and April 1 (R. 198). The breaks in the hearing were principally due to collateral proceedings instituted by appellants' attorney (R. 759). The decision on the claims was not rendered until May 14, 1964 (R. 212).

"The principal issue at the unemployment insurance hearings was not that of whether the man had or had not violated the standards for Class A registration but, rather, whether those violations, if any, would disqualify him for unemployment insurance under the peculiar tests set forth in the statute. The unemployment insurance issue could not be determined without a full investigation of the factual basis for the denial of full registration under the "1963 Rules". These factual questions were vigorously litigated by appellants' attorney and a full record resulted.

"The transcript of the hearings became available to the Joint Port Committee in May, 1964 (R. 475); it was incorporated into the record of the committee when grievance hearings were commenced by that committee later that month (R. 90). The committee also ordered that this record be summarized in writing and made available to each of the appellants for assistance in preparing and presenting his case in the grievance-arbitration proceedings. (R. 91v). "

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<sup>4</sup> 4. The charges to which we refer were filed by the men on July 25, August 5, September 26, and December 2, 1963. After a field investigation, a complaint was issued by the San Francisco Regional Director on April 2, 1964 (R. 232). "

(PMA Brief, pp. 14-15)



"Further hearings on the grievances were held in October, 1964, after notice, and all appellants were given full opportunity to present evidence to support, contradict, supplement and explain the summarized evidence and to argue the issues. The Joint Port Committee thereafter determined that each of the appellants had failed to meet the standards for Class A registration. Appellants were given a copy of the decision and were advised of their rights to appeal (R. 91a-91c).

"Appellants' attorney addressed communications to the Joint Coast Committee. These were deemed to be an appeal from the ruling of the Joint Port Committee (R. 86). Counsel for appellants was informed that all men were invited to present their cases to the Joint Coast Committee at the designated time and place (R. 87, 91m). One man, Mr. Love, appeared at the Joint Coast Committee hearing. He was offered, but refused, the assistance of union counsel. He admitted that he failed to meet the standards to remain registered and limited his argument to an attack on the standards (R. 90-91).

"The Joint Coast Committee, in its decision issued December 18, 1964, found that the registration standards comprising the "1963 Rules" had been applied fairly and uniformly and without discrimination and that each appellant failed to meet those standards (R. 86-91). Appellants' attorney was served with the decision the day it was rendered (R. 83). The Joint Coast Committee simultaneously gave notice (R. 84-85) to each grievor of his rights under Section 17.4 of the ILWU-PMA agreement (R. 4, page 69) permitting an appeal to the Coast Arbitrator and a review, by him, of the facts of the deregistration. The decision and order of the Joint Coast Committee (R. 86 et seq.) are reproduced as Appendix B to this brief.

"It is uncontroverted that none of appellants or their attorney filed an appeal with the Coast Arbitrator (R. 83). "  
(PMA Brief, pp. 15-16)

The first part of the book deals with the general principles of the theory of the firm. It discusses the role of the entrepreneur, the nature of the firm, and the determination of the firm's output and employment. The second part of the book deals with the theory of the market. It discusses the determination of the market price, the allocation of resources, and the welfare of society. The third part of the book deals with the theory of the economy. It discusses the determination of the national income, the distribution of income, and the growth of the economy.

The book is written in a clear and concise style, and it is suitable for students of economics. It is a classic text that has been used for many years. The book is divided into three parts, each of which deals with a different aspect of the theory of the firm, the market, and the economy. The first part deals with the general principles of the theory of the firm, the second part deals with the theory of the market, and the third part deals with the theory of the economy. The book is a comprehensive and authoritative treatment of these topics.

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"From the time appellants were given the opportunity to respond to the summary in September, 1964, to the time of the Joint Coast Committee's decision on December 18, 1964, only *three* months were involved. In view of these facts, the claim of "delay" cannot now be used as an excuse for the failure to appeal the decision of the Joint Coast Committee to the arbitrator. No case to the contrary is cited. "

(PMA Brief, p. 73)

